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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE
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10 UNITED STATES OF AMERICA,
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12 Plaintiff,
13 v.
14 MARVIN ROCKWELL,
15 Defendant.

Case No. CR12-309RSL

ORDER DENYING
RENEWED MOTION FOR
EARLY TERMINATION OF
SUPERVISED RELEASE

16 This matter comes before the Court on defendant's "Renewed Motion for Early
17 Termination of Supervised Release." Dkt. # 33. Having reviewed defendant's memorandum and
18 exhibits, the government's response in opposition, the input of United States Probation, and the
19 remainder of the record, the Court DENIES defendant's motion.¹

20 On November 1, 2012, defendant pleaded guilty to one count of possession of child
21 pornography in violation of 18 U.S.C. § 2252(a)(4)(B). Dkt. ## 5, 7. On March 15, 2013, the
22 Court sentenced defendant to one day in custody, with credit for time served, followed by a
23 lifetime term of supervised release. Dkt. # 19.

24 In the years since then, defendant complied with a sexual deviancy evaluation and
25 successfully completed treatment and all assignments asked of him. Defendant has continued to
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28 ¹ The Court finds that this matter can be decided on the papers submitted. Defendant's request for oral
argument is therefore DENIED.

1 meet with his mental health counselor. Defendant also suffers from advanced Parkinson's
2 disease, which affects his ability to walk, write, and speak. See Dkt. # 33.

3 In December 2016, defendant filed a motion for termination of supervised release. Dkt. #
4 27. That motion cited defendant's health condition and successful compliance with the terms of
5 supervision, including his completion of sexual deviancy treatment. The Court commended
6 defendant's cooperation and acknowledged his health challenges, but denied the motion given
7 defendant's offense and the minimally intrusive nature of supervised release. Dkt. # 32 at 2.

8 Defendant has again moved the Court for early termination based largely on the same
9 reasons in his previous motion. Dkt. # 33. Defendant asserts that his debilitating condition
10 renders him harmless to the public. He includes with his motion a letter from his doctor along
11 with a brief video describing and documenting his lack of physical mobility. See Dkt. ## 33, 38.

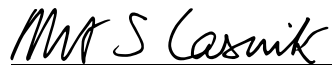
12 Under 18 U.S.C. § 3583(e), the Court may, after considering a subset of sentencing
13 factors set forth in 18 U.S.C. § 3553(a), terminate a term of supervised release after at least one
14 year "if it is satisfied that such action is warranted by the conduct of the defendant released and
15 the interest of justice." 18 U.S.C. § 3583(e)(1). The factors the Court should consider include the
16 nature and circumstances of the offense and the history and characteristics of the defendant; the
17 need for the sentence imposed to afford adequate deterrence, to protect the public, and to
18 provide the defendant with training, medical care, or other treatment in the most effective
19 manner; relevant guidelines or policy statements issued by the Sentencing Commission; and the
20 need to provide restitution. Id. §§ 3553(a), 3583(e). When deciding whether to terminate
21 supervised release, the Court "enjoys discretion to consider a wide range of circumstances."
22 United States v. Emmett, 749 F.3d 817, 819 (9th Cir. 2014).

23 The Court concludes termination of defendant's supervised release is not warranted at
24 this time for substantially the same reasons articulated in the Court's previous order.
25 Defendant's lack of mobility and other health challenges appear to limit him considerably, but
26 he does not appear to be so limited that he could not reoffend. As the government observes in its
27 response, a crime like defendant's requires very little physical strength or mobility to carry out.
28 Despite defendant's assertion that there is no evidence he poses a risk to the public, the evidence

1 of that risk is his conviction itself. The Court echoes its previous observations commending
2 defendant's progress and acknowledging his health challenges, but nonetheless concludes
3 defendant's circumstances have not changed since the Court's previous denial in a way that
4 justifies terminating his supervised release.

5 For the foregoing reasons, defendant's motion is DENIED.

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7 DATED this 19th day of October, 2017.
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11 Robert S. Lasnik
12 United States District Judge
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